

CITY OF SAN JOSÉ, CALIFORNIA
Department of Planning, Building and Code Enforcement
801 North First Street, Room 400
San José, California 95110-1795

STAFF REPORT

Hearing Date/Agenda Number
03/08/2006 Item:
C.C. 04/04/2006 Item:

File Number
PDC05-077

Application Type
Planned Development Rezoning

Council District
1

Planning Area
West Valley

Assessor's Parcel Number(s)
303-39-057; 303-39-058

PROJECT DESCRIPTION

Completed by: Rebekah L. Ross

Location: East side of South Winchester Boulevard, approximately 420 feet south of Stevens Creek Boulevard

Gross Acreage: .63

Net Acreage:
0.54

Net Density: N/A

Existing Zoning: A(PD) Commercial and
Residential PDC84-008

Existing Use: Vacant fast food restaurant with drive-thru and
occupied residences at the rear

Proposed Zoning: A(PD) Planned Development

Proposed Use: Commercial/Retail building and drive-thru-

GENERAL PLAN

Completed by: RLR

Land Use/Transportation Diagram Designation
General Commercial

Project Conformance:
☒ Yes ☐ No
☐ See Analysis and Recommendations

SURROUNDING LAND USES AND ZONING

Completed by: RLR

North: Commercial

CN – Commercial Neighborhood

East: Commercial

CG - Commercial General and A(PD) [Santana Row]

South: Commercial

CN – Commercial Neighborhood

West: Residential

A(PD) Planned Development

ENVIRONMENTAL STATUS

Completed by: RLR

☐ Environmental Impact Report found complete
☐ Negative Declaration

☒ Exempt
☐ Environmental Review Incomplete

FILE HISTORY

Completed by: RLR

Annexation Title: Winchester No_37

Date: 7/02/1984

PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

☒ Approval
☐ Approval with Conditions
☐ Denial

Date:

Approved by: _____
☐ Action
☒ Recommendation

APPLICANT/OWNER/DEVELOPER

Owner/Applicant:

Glen Dennee'
2265 El Camino Real #3
Santa Clara, CA 95050

Developer:

John McKay
BREP –Bismark
5400 Alderglen Court
Carmichael, CA 95608

Contact:

Matthew Hannell
Quality Project Management
3660 No. Lake Shore Drive #4707
Chicago, IL 60613

PUBLIC AGENCY COMMENTS RECEIVED**Completed by: RLR**

Department of Public Works
See attached memorandum.

Other Departments and Agencies

Fire Department.

GENERAL CORRESPONDENCE

None.

ANALYSIS AND RECOMMENDATIONS

BACKGROUND

BREP-Bismarck Development, on behalf of the property owner, Glen Denver, is proposing to rezone the subject site from A(PD) to A(PD) to allow the development of a 4,681 square foot commercial building to be used for a public eating establishment with an associated drive-thru, and one new commercial use. The applicant is requesting a rezoning of the property to accommodate the applicant's desire for additional commercial uses on the site that is not permitted within the current A(PD) Zoning District.

Prior Approval

The current Planned Development Zoning district allows a public eating establishment with an associated drive thru that fronts onto South Winchester Boulevard and two single family detached uses which front onto Spar Avenue. At this time, the site could be refurbished and occupied by a new public eating establishment with an associated drive-thru with the issuance of building permits. This rezoning application does not include the two rear residential properties that are covered in the current zoning of this property. The residential properties will remain unchanged.

Location

The site is located on the west side of South Winchester Boulevard, approximately 420 feet south of Stevens Creek Boulevard. Lyons restaurant exists to the north, and the Mandarin House restaurant is situated to the south. Two single-family detached residences that front onto Spar Avenue, which are located in the subject site's current A(PD) zoning district, exist at the west of the subject site. Santana Row is situated directly across from the subject site to the east. The commercial portion of the current A(PD) district has frontage along Winchester Boulevard.

Project Description

The project proposes a 1,716 square foot public eating establishment with an associated drive-thru and one additional 2,965 square foot commercial space. The existing 2,669 square foot vacant commercial building will be demolished. This subject site will be limited to a maximum 4,685 square feet of buildable area and two occupancy spaces. Three ordinance size trees will be removed as a result of this proposal (see Analysis).

ENVIRONMENTAL REVIEW

Under the provisions of Section 15303(c), New Construction or Conversion of Small Structures, of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA) this project is found to be exempt in that 1) this project is less than 10,000 square feet in floor area, 2) is consistent with the current commercial zoning on the site and 3) does not involve the use of significant amounts of hazardous substances. All necessary public services and facilities are available and the surrounding area is not environmentally sensitive.

GENERAL PLAN CONFORMANCE

The proposed rezoning is consistent with the San Jose 2020 General Plan Land Use/Transportation Diagram designation of General Commercial. This is a non-specialized commercial designation intended to permit miscellaneous commercial uses. Below is a discussion of the applicable Policies and Goals and how the project conforms to the General Plan.

This proposal is consistent with the General Plan's Commercial Land Use policies in that new commercial development should be located near existing shopping centers, and the City should encourage the upgrading, beautifying and revitalization of existing commercial centers. The subject site is located approximately 120 feet directly across from Santana Row. The existing neglected Burger King restaurant will be demolished. A modern building that has designed features compatible to the modern components of Santana Row's architecture will be constructed in its place. The site will be substantially landscaped and beautified.

This proposal is consistent with the General Plan's Urban Design Goals and Policies in that proposed structures adjacent to existing residential areas should be architecturally designed and sited to protect the privacy of the existing residences, and new development projects should include the preservation of ordinance sized and other significant trees. The existing eight-foot sound wall that separates the commercial uses from the western residential uses will remain. Additionally, the 1984 A(PD) zoning required that the newly constructed single-family house use sound attenuation construction methods to further decrease the impact of the noise of the commercial site. Eleven ordinance size trees, including the Chinese Elm tree at the center of the site and the groves of Redwood trees along the western side of the site, are to be preserved and protected.

This proposal is consistent with the General Plan's Service and Facilities Goals and Policies in that new projects should be designed to minimize potential damage due to stormwater and flooding to the site and other properties. The site design includes an innovative and exceptional

Stormwater Management plan. To comply with City Council policy 6-29, a certified engineer has designed a system that incorporates and preserves existing mature landscaped areas. Planter boxes and filter systems will be installed in these areas as well as within the landscape strip that will separate the drive-thru lane from a parking area on the western portion of the site. Permeable paving materials will be used to create the new pedestrian paths and outdoor seating areas located at the front of the site. Thirty-five percent of the site will be landscaped.

ANALYSIS

The proposed development conforms to all of the requirements of the *Commercial Design Guidelines* and with *City Council Policy 6-10, Criteria for the Review of Drive-Through Uses*, with the exception on the prohibition of drive-thru uses adjacent to residential development. Below is a discussion of the conformance of this proposal in accordance to the above referenced policies.

Adjacent Residential Uses

Although the modified drive-thru will be located within 22 feet of the abutting western residential property line, inconsistent with the Commercial Design Guidelines and the City Council Policy on Drive Thru uses which specify a minimum distance of 200 feet, staff believes that the modified drive-thru and the development of the site have been designed to further reduce potential for detrimental effects on the residences. The existing physical layout and current zoning allows a minimal six (6') foot setback between the rear property line of the abutting residence and the existing drive-thru lane and allows the speaker system to be only 22 feet away from the rear property line.

Under this proposal, the modified drive-thru lane (at it's nearest point) will be 30 feet away from the rear yard property line and the speaker system, which will now face the southern commercial property line, will be 85 feet east of the residential rear property line. The abutting residences are required to maintain a 30-foot rear setback and were required to use sound attenuation measures at the time of construction to minimize the noise impacts of the adjacent commercial site. The existing eight foot high western soundwall will remain on the site. The current western six-foot setback will be increased to ten feet and will be appropriately landscaped. Further more, an independent noise study states that the exterior noise levels associated with the modified drive-thru will have a standard level of 55 dB Ldn, which conforms to the General Plans noise Policies.

Given that the two residences were included in the original zoning of the restaurant with associated drive-thru and the positive improvements to the site design, staff believes this proposal is in conformance with the intent of the Commercial Design Guidelines and with City Council policy 6-10 in regards to its proximity to the rear residences.

Traffic, Site Access, Parking and Pedestrian Access

The subject site is located 420 feet south of the signalized intersection of Stevens Creek Boulevard and 370 feet north of the intersection of Olin Avenue. It is not located within 500 feet of another existing or planned drive-thru use, or within 1,000 feet of an existing or planned

transit station. Entry to the site is accessed off of South Winchester Boulevard, which is a six-lane major street.

The independent traffic study submitted, which was evaluated by the Department of Public Works, determined that the proposal meets the Transportation LOS policy and that it will not compound any existing traffic conditions. As determined by the Department of Public Works, at no point do the ingress and egress driveways on the site interfere with turning movements of street intersections. Pedestrian access does not cross through the drive-thru and is adequate for the site.

Based on the 420 square foot dining room area, the proposed public eating establishment requires 11 parking spaces. In the 'worse-case-scenario' the new commercial tenant space, if used for retail purposes, would require 13 parking spaces. Where 23 spaces are required, 26 parking spaces are proposed. Two motorcycle and three bicycle parking spaces will be located at the front of the site. All future land uses on the site will be determined by the available parking.

Additionally, two offers of future cross access easement will be in place at the northwest and southwest corner of the site. These future potential cross access easements will become effective should future redevelopment of the subject site and/or the adjacent sites occurs and should cross access be desirable.

Stacking and Separation of Parking Areas

Eight cars is the maximum number of cars required for a drive-thru lane. The proposed drive-thru lane can hold up to eight cars. In anticipation of overflow, up to four cars (50% of the stacking lane) can "line-up" within the left side of the 20-foot entry drive aisle. An electronic sign and 'clicker' will be installed at the entry of the drive-thru lane. Once the 'clicker' has counted eight cars in the drive-thru lane, a sign located at the driveway entry will illuminate and read, "Drive-Thru Lane Full, Please Park."

A six-foot landscape strip will separate the cars maneuvering through the drive-thru lane and the cars parking on the western side of the site. All cars exiting the site will merge at an existing 16-foot one-way right-out driveway. A decorative overhead trellis, draped with plants and vines, will be constructed above the southern portion of the drive-thru lane.

Drive-thru speaker

The drive-thru speaker will be relocated approximately 85 feet away from the rear abutting property line. The menu board and speaker will be on the southern side of the new building and will face the southern adjacent commercial uses. The speaker system will use low volume technology to further reduce the noise impacts of the drive-thru and will not be audible from the adjacent residential uses.

Trees

Based on a report provided by a certified arborist, nine non-ordinance size trees and three ordinance size trees will be removed as a result of this proposal. The ordinance size Palm tree is a volunteer species that is overcrowding the adjacent Shamel Ash tree. The ordinance size Siberian Elm, located in front of the existing building and the ordinance size Shamel Ash tree

located in the middle of the front of the site, have been topped and require removal to preserve public safety. One 36-inch box tree and 15 24-inch box replacement trees will be planted as a result of these removals.

Eleven ordinance size trees, including the Chinese Elm tree at the center of the site and the groves of Redwood trees along the western side of the site, are to be preserved and protected. All existing mature landscaping is to be preserved to the maximum extent possible.

Conclusion

Based on the above analysis, staff concludes that the proposed rezoning is consistent with the General Plan designation for the site, will be designed to be compatible with surrounding land uses and that the project substantially conforms to the City Council Policy on Drive-Through Uses and the Commercial Design Guidelines.

PUBLIC OUTREACH

In lieu of hosting a more typical community meeting, the applicant attended and presented the proposal to the community during two Winchester Strong Neighborhood Initiative Neighborhood Advisory Committee meetings (SNI/NAC). The subject site is located approximately 2,000 feet north of the Winchester SNI/NCA area. Residents who live within 1,000 feet of the subject site were notified that the project would be presented at the first meeting.

During the September 9th, 2005 SNI/NAC meeting, approximately 20 people attended. A few of the attendees were supportive of the proposal. The remaining attendees expressed concerns about the proposed rezoning. Their concerns included apprehension that 1) the proposed development would add to the existing traffic congestion along Winchester Boulevard caused by Santana Row, 2) that there would not be enough parking on the site, 3) that not enough cars will be able to be in the drive-thru lane and 3) pedestrian safety along Winchester Boulevard. The community was also concerned that there are 'too many' Starbucks in the area. In response to the community's concerns, the applicant's representative volunteered to have a traffic report performed by a private consultant and to return to the next months meeting.

On October 10th, 2006 planning staff and the developer's representative attended a second Winchester SNI/NAC meeting. The developer's representative invited a representative from Starbucks to attend the meeting to address the concerns associated with Starbucks operations. The majority of the attendees were opposed to the proposal. A few of the attendees were supportive of the project. The concerns raised during the first community meeting were reiterated as well as some new concerns regarding neighborhood conditions caused by previously approved development in the area.

Staff has not received any correspondences or telephone calls regarding this proposal since the two Winchester SNI/NAC meetings and during the public notification period prior to the Planning Commission hearing.

RECOMMENDATION

Planning staff recommends that the City Council approve the subject rezoning for the following reasons:

1. The proposed project is consistent with the San José 2020 General Plan Land Use/Transportation Diagram designation of General Commercial.
2. The proposed project is compatible with surrounding land uses.
3. The proposed project is consistent with the Commercial Design Guidelines.
4. The proposed project is consistent with the intent of the City Council Policy on Drive-Through Uses.